



**In the Missouri Court of Appeals
Eastern District
DIVISION THREE**

STATE OF MISSOURI,)	No. ED92208
)	
Respondent,)	
)	Appeal from the Circuit Court
vs.)	of St. Louis County
)	07SL-CR2791
ERIC T. TOLEN,)	
)	Honorable John A. Ross
Appellant.)	
)	Filed: December 22, 2009

OPINION SUMMARY

Eric T. Tolen appeals the judgment entered upon a jury verdict convicting him of thirty-six counts of statutory sodomy and one count of attempted tampering with a witness.

AFFIRMED.

Division Three holds:

- (1) The trial court did not err in denying Tolen's motion to suppress concerning items seized from his residence pursuant to two separate search warrants and in allowing such items to be introduced as evidence at trial. The items were properly seized pursuant to valid warrants.
- (2) The files seized from the trunk of Tolen's vehicle on August 5, 2007 were not used as evidence at trial and no evidence was presented that the absence of the materials affected Tolen's defense. Therefore, Tolen did not suffer any harm from the trial court's failure to order the files returned to Tolen.
- (3) The numerous statutory sodomy charges were properly joined, and the trial court did not abuse its discretion in denying Tolen's motion to sever the charges.

Opinion by: Glenn A. Norton, P.J. Mary K. Hoff, J., and Lawrence E. Mooney, J., concur.

Attorney for Appellant: Lawrence J. Fleming

Attorneys for Respondent: Chris Koster and Daniel N. McPherson

**SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN
PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE
QUOTED OR CITED.**